

REMARKS/ARGUMENTS

Claims 1-57 stand rejected.

Claim 1 is amended to correct a typographical error.

Claims 58, 59, and 60 are added

No claims are cancelled.

Claims 1-60 remain in this application.

35 U.S.C. §102

Claim 52 is rejected under 35 USC §102(e) as being anticipated by U.S. Patent No. 6,598,164 B1 to Shepard (Shepard). Applicants respectfully traverse the rejection.

Independent claim 52 recites in part "processing the scrambled content to modify the scrambled content".

This 35 USC §102(e) rejection was presented in the Action of February 9, 2004; however, the present Action of April 20, 2005 looks to U.S. Patent No. 6,047,069 to Hogan (Hogan) as teaching "processing the scrambled content to modify the scrambled content" which is not taught in Shepard. Applicants present that a 35 USC §102(e) rejection is improper.

Nevertheless, Hogan fails to teach the element "processing the scrambled content to modify the scrambled content" as presented in the Action. The Action presents that this element is taught in Hogan in the abstract, Fig. 7, and col. 5, lines 7-30. Hogan teaches "error correction" which does not necessarily "modify the scrambled content". The Action presents that "the term 'processing data' as used by one of ordinary skill in the art does include error correction coding as a

1 form of data processing".

2 The error correction that is taught in Hogan does not necessarily "modify
3 the scrambled content". If no error is detected, the error correction essentially
4 sends the same content or data, without modifying the content or data. Therefore,
5 the error correction in Hogan may or may not "modify the scrambled content".

6 Accordingly, Shepard and Hogan do not teach every element of claim 52,
7 and the rejection of claim 52 is therefore improper. Applicants respectfully
8 request that the §102 rejection of claim 52 be withdrawn.

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10 **35 U.S.C. §103**

11 Claims 1, 2, 5, 8, 10 and 14 are rejected under 35 USC §103(a) as being
12 unpatentable over prior art in view of Hogan. Applicants respectfully traverse the
13 rejection.

14 **Independent claim 1** recites in part "an operating system stored in the
15 memory and executed on the processor, the operating system having processing
16 tools for processing the content in support of the content player".

17 The Action states that "Hogan teaches processing data while it is encrypted,
18 thereby preventing access to confidential data". Furthermore, the Action states
19 that "Hogan teaches the processing tools modifying the scrambled content in the
20 abstract, fig. 7, and col. 5 lines 7-30",

21 The "processing tools" taught in Hogan is the host processor 701 (See Fig.
22 7, col. 5 line 9 of Hogan). As discussed above, and admitted in the Action, Hogan
23 teaches "error correction" which the Action presents is included in "data
24 processing".
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1 Claim 1 particularly recites "the operating system having processing tools
2 for processing the content". Hogan fails to teach such an operating system, since
3 the "processing tools" that are taught in Hogan is the "processor".

4 Claim 1 further recites in part "wherein the processing tools modify the
5 scrambled content". The prior art does not teach this element. Furthermore, as
6 discussed above, since Hogan is directed to error correction, scrambled data may
7 or may not be modified, depending on whether an error is detected.

8 Accordingly, the prior art and Hogan do not teach every element of claim 1,
9 and the rejection of claim 1 is therefore improper. Applicants respectfully request
10 that the §102 rejection of claim 1 be withdrawn.

11 Dependent claims 2, 5, 8, 10 and 14 depend from and comprise all the
12 elements of claim 1. As such, dependent claims 2, 5, 8, 10 and 14 are allowable at
13 the least by virtue of their dependency on base claim 1. Applicants respectfully
14 request that the §103 rejection of claims 2, 5, 8, 10 and 14 be withdrawn.

15 Claim 3 is rejected under 35 U.S.C. §103(a) over prior art in view of Hogan,
16 and further in view of Schneier (Applied Cryptography). Claim 4 is rejected under
17 35 U.S.C. §103(a) over prior art in view of Hogan, and further in view of U.S. Patent
18 No. 6,526,091 to Nystrom et al. (Nystrom). Claim 6 is rejected under 35 U.S.C.
19 §103(a) over prior art in view of Hogan, and further in view of U.S. Patent No.
20 5,991,416 to Bae (Bae). Claim 7 stands rejected under 35 U.S.C. §103(a) over prior
21 art in view of Hogan, and further in view of Marzahn. Claims 4, 9, and 11-13 are
22 rejected under 35 U.S.C. §103(a) over prior art in view of Hogan, and further in view
23 of Nicolai. Applicants respectfully traverse the rejection.

24 Dependent claims 3, 4, 6, 7, 9, 11-13 depend from and comprise all the
25 elements of claim 1. As such, dependent claims 3, 4, 6, 7, 9, 11-13 are allowable

1 at the least by virtue of their dependency on base claim 1. Applicants respectfully
2 request that the §103 rejection of claims 3, 4, 6, 7, 9, 11-13 be withdrawn.

3 Claims 15, 19, 20, 21, and 25 are rejected under 35 USC §103(a) as being
4 unpatentable over prior art in view of U.S. Patent No. 4,188,580 to Nicolai et al
5 (Nicolai) in view of Hogan and Microsoft Press Computer Dictionary, 3rd ed.
6 Applicants respectfully traverse the rejection.

7 **Independent claim 15** recites "[a] content scrambler for scrambling
8 content, comprising:

9 a tone generator and modulator to create periodic sets of tone
10 patterns and to modulate amplitudes of the sets based on a first key;

11 a random number generator to create a random signal based on the
12 first key and a second key, wherein the second key is provided on a
13 separate channel from the first key; and

14 an adder to add the sets of tone patterns and the random signal to the
15 content to produce scrambled content.

16 Nicolai teaches a gating module 11, a tracking module 13, and a pseudo-
17 random generator 10 that is part of a transmitter/receiver (see Fig. 1 of Nicolai).
18 The gating module 11 provides a clock signal on a bus 44 (col. 6, line 43 of
19 Nicolai), a resync signal on a bus 45 (col. 6, line 46 of Nicolai), and a XMIT
20 (transmit) signal on bus 50 (col. 7, line 9 of Nicolai). The tracking module 13
21 provides a sync/masking signal on bus 48 (col. 7, line 35 of Nicolai), and outputs
22 from a low Q filter 26 and high Q filter 27 that provide appropriate filtering in
23 conjunction with timing via respective bus 57 and bus 58 (col. 6, lines 26-29, 35-
24 37). In particular, a push to talk (PTT) signal on bus 47 enables an analog switch
25 28 connected to low Q filter 26 or an analog switch 29 connected to high Q filter

1 27. The outputs of the switches 28, 29 are coupled to phase lock loop 55 used to
2 generate a synchronization and masking signal on bus 48.

3 The Action presents that gating module 11 anticipates a "tone generator" and
4 that tracking module 13 anticipates a "modulator" that "creates a periodic set of tone
5 patterns". However, the outputs that are created from the gating module 11, the
6 tracking module 13, or the two in combination do not teach or suggest a set of tone
7 patterns.

8 Furthermore, there is no motivation that the outputs of gating module 11
9 and/or tracking module 13 may be amplitude modulated as recited in claim 15. In
10 fact, "to modulate amplitudes" of the outputs of gating module 11 and/or tracking
11 module 13 could affect downstream processes of the transmitted/receiver described
12 in Fig. 1. The Action states that "Nicolai et al do not say that the first key is
13 embodied in the tracking signal as amplitude modulations. The definition of
14 amplitude modulation in the computer dictionary defines it as encoding data in a
15 constant frequency transmission by varying amplitude. Therefore it would have
16 been obvious to a person of ordinary skill in the art of the time the invention was
17 made to include the first key of Nicolai et al in the tracking signal by modulating the
18 amplitude of the tracking signal, as is well known in the art of communications."
19 Applicants do not disagree with the Action; however, claim 15 recites to "modulate
20 amplitudes of the sets based on a first key", not "modulating the amplitude of the
21 tracking signal".

22 The Examiner seemingly relies on personal knowledge without pointing to
23 any specific teaching in Nicolai as to the elements of claims 15, 19, 20 and 21.
24 Specifically, the Examiner merely contends that "[a] as per claims 15, 19, 20, and
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1 21, Fig. 98 (there is not a Fig. 98 in Nicolai and Applicants are unsure what the
2 Action is referring to) and elements 11 and 13 of Fig. 1 anticipate a tone generator
3 and modulator that creates a periodic set of tone patterns". However, as discussed
4 above, the Action does not point out where in Nicolai the specific elements of
5 claims 15, 19, 20 and 21 are taught.

6 According to 37 CFR §1.104(d)(2), "[w]hen a rejection in an application is
7 based on facts within the personal knowledge of an employee of the office, the
8 data shall be as specific as possible, and the reference must be supported, when
9 called for by the applicant, by the affidavit of such employee, and such affidavit
10 shall be subject to contradiction or explanation by the affidavits of the applicant
11 and other persons." If this rejection is maintained on a similar basis in a
12 subsequent action, the applicant respectfully requests the Examiner to supply such
13 an affidavit to support this modification of Nicolai. Otherwise, and without
14 additional support, it is respectfully submitted the Examiner's conclusion does not
15 represent the conclusion of a person of ordinary skill at the time of invention

16 Accordingly, Nicolai, Hogan and Microsoft Press Computer Dictionary do
17 not teach every element of claim 15, and the rejection of claim 15 is therefore
18 improper. Applicants respectfully request that the §103 rejection of claim 15 be
19 withdrawn.

20 Independent claims 19, 20, 21 and 25 are rejected based on similar
21 reasons as claim 15. Applicants assert the arguments presented in support of claim
22 15, in support of claims 19, 20, 21 and 25. Applicants respectfully request that the
23 §102 rejection of claim 19, 20, 21 and 25 be withdrawn.
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1 Claims 16-17 stand rejected under 35 U.S.C. §103(a) over Nicolai in view of
2 the Microsoft Press Computer Dictionary, 3rd ed. Applicants respectfully traverse
3 the rejection.

4 Claim 18 is rejected under 35 U.S.C. §103(a) over Nicolai in view of the
5 Microsoft Press Computer Dictionary, 3rd ed. as applied to claim 15 and further in
6 view of Schneier. Applicants respectfully traverse the rejection.

7 **Dependent claims 16-18** depend from and comprise all the elements of
8 claim 15. As such, dependent claims 16-18 are allowable at the least by virtue of
9 their dependency on base claim 15. Applicants respectfully request that the §103
10 rejection of claims 16-18 be withdrawn.

11 Claims 22-24 stand rejected under 35 U.S.C. §103(a) over Nicolai in view of
12 the Microsoft Press Computer Dictionary, 3rd ed. Applicants respectfully traverse
13 the rejection.

14 **Dependent claims 22-24** depend from and comprise all the elements of
15 claim 21. As such, dependent claims 22-24 are allowable at the least by virtue of
16 their dependency on base claim 21. Applicants respectfully request that the §103
17 rejection of claims 22-24 be withdrawn.

18 Claims 26, 29, 32-35 stand rejected under 35 U.S.C. §103(a) over Nicolai in
19 view of the Microsoft Press Computer Dictionary, 3rd ed. Applicants respectfully
20 traverse the rejection.

21 **Dependent claims 26, 29, 32-35** depend from and comprise all the
22 elements of claim 25. As such, dependent claims 26, 29, 32-35 are allowable at
23 the least by virtue of their dependency on base claim 25. Applicants respectfully
24 request that the §103 rejection of claims 26, 29, 32-35 be withdrawn.
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1 Claim 27 stands rejected under 35 U.S.C. §102(b) over Nicolai et al in the
2 previous Office Action. Applicants respectfully traverse the rejection.

3 **Dependent claim 27** depends from and comprises all the elements of claim
4 25. As such, dependent claim 27 is allowable at the least by virtue of its
5 dependency on base claim 25. Applicants respectfully request that the §102
6 rejection of claim 27 be withdrawn.

7 Claim 28 stands rejected under 35 U.S.C. §103(a) over Nicolai in view of
8 Hogan. Applicants respectfully traverse the rejection.

9 **Dependent claim 28** depends from and comprises all the elements of claim
10 25. As such, dependent claim 28 is allowable at the least by virtue of its
11 dependency on base claim 25. Applicants respectfully request that the §103
12 rejection of claim 28 be withdrawn.

13 Claim 30 stands rejected under 35 U.S.C. §103(a) over Nicolai in view of .S.
14 Patent No. 6,526,145 to Marzahn (Marzahn). Applicants respectfully traverse the
15 rejection.

16 **Dependent claim 30** depends from and comprises all the elements of claim
17 25. As such, dependent claim 30 is allowable at the least by virtue of its
18 dependency on base claim 25. Applicants respectfully request that the §103
19 rejection of claim 30 be withdrawn.

20 Claim 31 stands rejected under 35 U.S.C. §103(a) over Nicolai in view
21 Schneier. Applicants respectfully traverse the rejection.

22 **Dependent claim 31** depends from and comprises all the elements of claim
23 25. As such, dependent claim 31 is allowable at the least by virtue of its
24 dependency on base claim 25. Applicants respectfully request that the §103
25 rejection of claim 28 be withdrawn.

1 Claims 36, 39, 48, and 49 are rejected under 35 USC §103(a) as being
2 unpatentable over Nicolai and Hogan, in view of Schneier.

3 Independent claim 36 recites in part "the client further having a descrambler
4 to unscramble the content after processing for subsequent playing wherein the
5 processing modifies the scrambled content".

6 As discussed above, Hogan does not teach or suggest "processing" which
7 "modifies the scrambled content". The error correction taught in Hogan does not
8 modify the scrambled content if no error is detected.

9 Accordingly, Nicolai, Hogan, and Schneier do not teach every element of
10 claim 36, and the rejection of claim 36 is therefore improper. Applicants
11 respectfully request that the §103 rejection of claim 36 be withdrawn.

12 Independent claims 39, 48, and 49 are rejected based on similar reasons as
13 claim 15. Applicants assert the arguments presented in support of claim 15, in
14 support of claims 39, 48, and 49. Applicants respectfully request that the §102
15 rejection of claims 39, 48, and 49 be withdrawn.

16 Claims 37 and 38 stand rejected under 35 U.S.C. §103(a) over Nicolai,
17 Hogan, Schneier, prior art and Marzahn. Applicants respectfully traverse the
18 rejection.

19 Dependent claims 37 and 38 depend from and comprises all the elements
20 of claim 36. As such, dependent claims 37 and 38 are allowable at the least by
21 virtue of their dependency on base claim 36. Applicants respectfully request that
22 the §103 rejection of claims 37 and 38 be withdrawn.

23 Claims 40-41 and 43-44 stand rejected under 35 U.S.C. §103(a) over Nicolai,
24 Hogan, and Schneier. Applicants respectfully traverse the rejection.
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1 Claim 42 stands rejected under 35 U.S.C. §103(a) over Nicolai, Hogan,
2 Schneier, and Bae. Applicants respectfully traverse the rejection.

3 Claims 45 and 46 stand rejected under 35 U.S.C. §103(a) over Nicolai,
4 Hogan, Schneier, and Microsoft Press Computer Dictionary, 3rd ed. Applicants
5 respectfully traverse the rejection.

6 Claim 47 stands rejected under 35 U.S.C. §103(a) over Nicolai, Hogan,
7 Schneier, prior art and Marzahn. Applicants respectfully traverse the rejection.

8 Dependent claims 40-47 depend from and comprise all the elements of
9 claim 39. As such, dependent claims 40-47 are allowable at the least by virtue of
10 their dependency on base claim 39. Applicants respectfully request that the §103
11 rejection of claims 40-47 be withdrawn.

12 Claims 50 and 51 stand rejected under 35 U.S.C. §103(a) over Nicolai,
13 Hogan, and Schneier. Applicants respectfully traverse the rejection.

14 Dependent claims 50 and 51 depend from and comprise all the elements of
15 claim 49. As such, dependent claims 50 and 51 are allowable at the least by virtue
16 of their dependency on base claim 49. Applicants respectfully request that the
17 §103 rejection of claims 50 and 51 be withdrawn.

18 Claims 53 and 54 are rejected under 35 U.S.C. §103(a) over Shepard in view
19 of Nicolai and the Microsoft Press Computer Dictionary, 3rd ed.

20 Dependent claims 53 and 54 depend from and comprise all the elements of
21 claim 52. As such, dependent claims 53 and 54 are allowable at the least by virtue
22 of their dependency on base claim 52. Applicants respectfully request that the
23 §103 rejection of claims 53 and 54 be withdrawn.

24 Independent claims 55 and 57 are rejected based on similar reasons as
25 claim 15. Applicants assert the arguments presented in support of claim 15, in

1 support of claims 55 and 57. Applicants respectfully request that the rejection of
2 claims 55 and 57 be withdrawn.

3 **Dependent claim 56** depends from and comprises all the elements of claim
4 55. As such, dependent claim 56 is allowable at the least by virtue of its
5 dependency on base claim 55. Applicants respectfully request that the §103
6 rejection of claim 56 be withdrawn.

Conclusion

Claims 1-60 are in condition for allowance. Applicant respectfully requests reconsideration and issuance of the subject application. Should any matter in this case remain unresolved, the undersigned attorney respectfully requests a telephone conference with the Examiner to resolve any such outstanding matter.

Respectfully Submitted,

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